IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and

THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 4511 of 2005

Between:

M/s.Rockwell Industries Ltd., 6-3-883/2/A, 3rd floor,

'Tejaswi plaza', above Tanishq Showroom, Punjagutta,

Hyderabad rep.by its Managing Director,
Sri A.K.Gupta.

..... PETITIONER

AND

1 Commercial Tax officer, Begumpet Circle, Hyderabad.
2 Assistant Commissioner (CT) No.IV (Enft)., Hyderabad.
3 Appellate Deputy commissioner (CT)

Punjagutta Division, Hyderabad.
4 Additional Commissioner (CT) Legal,

Andhra Pradesh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction particularly one in the nature of writ of Mandamus, granting stay of collection of the balance disputed tax of Rs.4,84,338/- for the assessment year 2002-03 (September, 2002 to March, 2003) passed by the second respondent dated 01-04-2004 and Rs.23,269/- for the assessment year 2003-04 (April to September, 2003) passed by the second

respondent dated
01-04-2004 and become payable in pursuance of the stay rejection order of the fourth respondent dated 14-02-2005 passed in CCT's Ref.No.LIII(2)/1205/2004 pending disposal of the appeal before the third respondent or to pass such further or other orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner :Mr.S.KRISHNA MURTHY

Counsel for the Respondents : GP FOR COMMERCIAL TAX

The Court at the stage of admission made the following :

O R D E R (Per TCSR,J)

Petitioner seeks to assail the order dated 14.2.2005 passed by the learned Additional Commissioner (CT) Legal, wherein the learned Additional Commissioner rejected the request of the petitioner for grant of stay.

2. It is the case of the petitioner that it is engaged in business of manufacturing and marketing of water coolers, etc. The petitioner placed purchase order on M/s Kirloskar Copeland Limited for the supply of compressors. The 2nd respondent, who inspected the premises of the petitioner assessed the compressors for the assessment year 2002-03 and raised demand of Rs.30,27,114/-. Questioning the said assessment, the petitioner preferred an appeal, which is now pending adjudication before the 3rd respondent – Appellate Deputy Commissioner (CT). The appeal has been accompanied by an application for grant of stay. The said stay petition was dismissed and questioning the same, petitioner approached the Additional Commissioner for stay and under the impugned order, as aforesaid, the learned Additional Commissioner also dismissed the stay petition.

3. We are not inclined to enter into the merits of the case, as to whether the assessment made by the 1st respondent is correct or not. Since the grievance of the petitioner is confined only to stay application, we are inclined to dispose of the writ petition at the

threshold by passing usual order.

4. Writ petition is, therefore, disposed of as under:

“There shall be stay of collection of the disputed tax on the condition of the petitioner depositing fifty per cent of the disputed tax, exclusive of the tax if any paid, on or before 31.3.2005, in the event of which, 3rd respondent is directed to dispose of the appeal before him as early as possible, within a period of three weeks from the date of receipt of a copy of this order.”

5. Under the circumstances, no order as to costs.

M.H.S.ANSARI,J

T.CH.SURYA RAO,J

AVS/RNS

DATE:10.03.2005

To

1 The Commercial Tax officer, Begumpet Circle, Hyderabad.

2 The Assistant Commissioner (CT) No.IV (Enft)., Hyderabad.

3 The Appellate Deputy commissioner (CT)

Punjagutta Division, Hyderabad.

4 The Additional Commissioner (CT) Legal

Andhra Pradesh, Hyderabad.

5 Two CCs to G.P. for Commercial Taxes

6 Two CD copies

7 1 CC to MR.KRISHNA MURTHY